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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,072	10/19/2001	Robert Dale Haun	DEE6270P0140US	3900

7590 02/26/2004

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Suite 520
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EXAMINER

BOTTORFF, CHRISTOPHER

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/042,072	Applicant(s) HAUN ET AL	
	Examiner Christopher Bottorff	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 25 is/are rejected.
- 7) ☒ Claim(s) 23 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

The amendment filed July 17, 2003 has been entered. Claims 16-25 are added. Claims 1-25 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeen US 3,622,174 in view of Daniels et al. US 6,041,878 and Mayhew US 3,815,701.

Wakeen discloses a tractor having a frame 11, 12, and 22, and a grille 21 having a grill frame mounted in front of a radiator. See Figures 1 and 2 and column 1, line 61, through column 2, line 1. The frame of the grille is fastened to the front portion of the frame of the tractor by hinges 17, 18, and 19, and has four sides A, B, C, and D (see the attached copy of Figure 2 with reference symbols added) that each comprises a rectangular subframe and surround a front facing opening that is substantially covered by an air permeable wall.

The tractor also has a pair of brackets (note the members attached to the forward ends of frame members 11 and 12 by bolts 23 and 24), and a guard 29 fastened to the brackets at sockets 26 and 27 in front of the grille. See Figures 1-3. The brackets are

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mounted to the front portion of the frame of the tractor and project frontwardly from the front portion of the frame of the tractor.

Wakeen does not disclose that the grille frame has hollow frame members that form a three-dimensional space frame. In addition, although Wakeen discloses that the grille is fastened to the frame of the tractor at the lower portion of the frame of the grille by hinges 17, 18, and 19, the disclosure does not clearly establish that the grille is fastened to the tractor frame only at the lower portion.

However, Daniels et al. teach that the practice of forming grille frame members 34 as hollow members such that a three dimensional space frame is formed was old and well known in the art at the time the invention was made. See Figures 1, 2, and 5. Mayhew teaches that fastening a grille to a tractor frame only at the lower portion of the grille frame was old and well known in the art at the time the invention was made. See Figures 2 and 3 and column 1, lines 7-11.

From the teachings of Daniels et al., providing the grille frame members of Wakeen as hollow members that form a three dimensional space frame would have been obvious to one of ordinary skill in the art at the time the invention was made. This would provide the frame members with a rigid structure. From the teachings of Mayhew, fastening the grille of Wakeen to the tractor frame only at the lower portion of the grille frame would have been obvious to one of ordinary skill in the art at the time the invention was made. This would allow the grille to be quickly attached and detached from the frame for maintenance.

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Claims 2, 3, 16, 17, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeen US 3,622,174 in view of Daniels et al. US 6,041,878 and Mayhew US 3,815,701 as applied to claims 1, 14, and 15 above, and further in view of Thompson US 4,681,302.

Wakeen does not disclose the material of the grille. Thompson teaches that molded, cross-linked, polyethylene is an advantageous material in that it provides high strength, resilience, and resistance to permanent deformation. See column 5, lines 47-50. Since the tractor of Wakeen would benefit from having a grille that is high strength, resilient, and resistant to permanent deformation, forming the grille of molded, cross-linked, polyethylene, as taught by Thompson, would have been obvious to one of ordinary skill in the art at the time the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeen US 3,622,174 in view of Storer US 6,318,773.

Wakeen does not disclose that the brackets project through an aperture on the frame of the grille.

However, Storer teaches that the practice of projecting guard support brackets 36 through an aperture 76 in a lower portion of a frame of a grille was old and well known in the art at the time the invention was made. See Figure 2 and column 5, lines 58-61. From the teaching of Storer, arranging the grille of Wakeen such that the brackets project through an aperture in a lower portion of the grille frame would have been obvious to one of ordinary skill in the art at the time the invention was made. This

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would hide most of the bracket structure for a more appealing outer appearance to the tractor.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeen US 3,622,174 in view of Storer US 6,318,773 as applied to claim 4 above, and further in view of Mayhew US 3,815,701.

Although Wakeen discloses that the grille is fastened to the frame of the tractor at the lower portion of the frame of the grille by hinges 17, 18, and 19, the disclosure does not clearly establish that the grille is fastened to the tractor frame only at the lower portion.

However, Mayhew teaches that fastening a grille to a tractor frame only at the lower portion of the grille frame was old and well known in the art at the time the invention was made. See Figures 2 and 3 and column 1, lines 7-11. From the teachings of Mayhew, fastening the grille of Wakeen to the tractor frame only at the lower portion of the grille frame would have been obvious to one of ordinary skill in the art at the time the invention was made. This would allow the grille to be quickly attached and detached from the frame for maintenance.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeen US 3,622,174 in view of Storer US 6,318,773 as applied to claim 4 above, and further in view of Thompson US 4,681,302.

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Wakeen does not disclose the material of the grille. Thompson teaches that molded, cross-linked, polyethylene is an advantageous material in that it provides high strength, resilience, and resistance to permanent deformation. See column 5, lines 47-50. Since the tractor of Wakeen would benefit from having a grille that is high strength, resilient, and resistant to permanent deformation, forming the grille of molded, cross-linked, polyethylene, as taught by Thompson, would have been obvious to one of ordinary skill in the art at the time the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeen US 3,622,174 in view of Daniels et al. US 6,041,878 and Storer US 6,318,773.

Wakeen does not disclose that the grille frame has hollow frame members that form a three-dimensional space frame. In addition, Wakeen does not disclose that the brackets project through an aperture on the frame of the grille.

However, Daniels et al. teach that the practice of forming grille frame members 34 as hollow members such that a three dimensional space frame is formed was old and well known in the art at the time the invention was made. See Figures 1, 2, and 5. Storer teaches that the practice of projecting guard support brackets 36 through an aperture 76 in a lower portion of a frame of a grille was old and well known in the art at the time the invention was made. See Figure 2 and column 5, lines 58-61.

From the teachings of Daniels et al., providing the grille frame members of Wakeen as hollow members that form a three dimensional space frame would have been obvious to one of ordinary skill in the art at the time the invention was made. This

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would provide the frame members with a rigid structure. From the teaching of Storer, arranging the grille of Wakeen such that the brackets project through an aperture in a lower portion of the grille frame would have been obvious to one of ordinary skill in the art at the time the invention was made. This would hide most of the bracket structure for a more appealing outer appearance to the tractor.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeen US 3,622,174 in view of Daniels et al. US 6,041,878 and Storer US 6,318,773 as applied to claim 9 above, and further in view of Mayhew US 3,815,701.

Although Wakeen discloses that the grille is fastened to the frame of the tractor at the lower portion of the frame of the grille by hinges 17, 18, and 19, the disclosure does not clearly establish that the grille is fastened to the tractor frame only at the lower portion.

However, Mayhew teaches that fastening a grille to a tractor frame only at the lower portion of the grille frame was old and well known in the art at the time the invention was made. See Figures 2 and 3 and column 1, lines 7-11. From the teachings of Mayhew, fastening the grille of Wakeen to the tractor frame only at the lower portion of the grille frame would have been obvious to one of ordinary skill in the art at the time the invention was made. This would allow the grille to be quickly attached and detached from the frame for maintenance.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeen US 3,622,174 in view of Daniels et al. US 6,041,878 and Storer US 6,318,773 as applied to claim 9 above, and further in view of Thompson US 4,681,302.

Wakeen does not disclose the material of the grille. Thompson teaches that molded, cross-linked, polyethylene is an advantageous material in that it provides high strength, resilience, and resistance to permanent deformation. See column 5, lines 47-50. Since the tractor of Wakeen would benefit from having a grille that is high strength, resilient, and resistant to permanent deformation, forming the grille of molded, cross-linked, polyethylene, as taught by Thompson, would have been obvious to one of ordinary skill in the art at the time the invention was made.

Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeen US 3,622,174 in view of Daniels et al. US 6,041,878 and Thompson US 4,681,302.

Wakeen does not disclose that the front frame members are tubular members that are substantially closed and substantially retain air in the members. Also, Wakeen does not disclose the material of the frame members.

However, Daniels et al. teach that the practice of forming grille frame members 34 as tubular members that are substantially closed and substantially retain air in the members was old and well known in the art at the time the invention was made. See Figures 1, 2, and 5. Thompson teaches that molded, cross-linked, polyethylene is an

advantageous material in that it provides high strength, resilience, and resistance to permanent deformation. See column 5, lines 47-50.

From the teachings of Daniels et al., providing the grille frame members of Wakeen as tubular members that are substantially closed and substantially retain air in the members would have been obvious to one of ordinary skill in the art at the time the invention was made. This would provide the frame members with a rigid structure. Also, since the tractor of Wakeen would benefit from having grille frame members that are high strength, resilient, and resistant to permanent deformation, forming the grille of molded, cross-linked, polyethylene, as taught by Thompson, would have been obvious to one of ordinary skill in the art at the time the invention was made.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wakeen US 3,622,174 in view of Daniels et al. US 6,041,878 and Thompson US 4,681,302 as applied to claim 20 above, and further in view of Mayhew US 3,815,701.

Although Wakeen discloses that the grille is fastened to the frame of the tractor at the lower portion of the frame of the grille by hinges 17, 18, and 19, the disclosure does not clearly establish that the grille is fastened to the tractor frame only along the bottom region.

However, Mayhew teaches that fastening a grille to a tractor frame only along the bottom region of the grille frame was old and well known in the art at the time the invention was made. See Figures 2 and 3 and column 1, lines 7-11. From the teachings of Mayhew, fastening the grille of Wakeen to the tractor frame only along the

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bottom region of the grille frame would have been obvious to one of ordinary skill in the art at the time the invention was made. This would allow the grille to be quickly attached and detached from the frame for maintenance.

Allowable Subject Matter

Claims 23 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed July 17, 2003 have been fully considered but they are not persuasive. Also, since the amendment was based in part on the previous indication of allowable subject matter, which the examiner has withdrawn in light of Daniels et al., this office action is **not** final.

In regard to Mayhew, Applicants assert that Mayhew does not disclose a grille frame fastened only at the bottom. However, the invention of Mayhew relates to a frame fastened at the bottom and only suggests that additional fasteners are optional, rather than being required or necessary. In particular, in column 3, lines 52-55, Mayhew indicates that "the rear end of hood 10 *may* be releasably engaged..." (emphasis added). Since the invention disclosed by Mayhew only requires the grille frame to be fastened at the bottom, Mayhew offers sufficient teaching that fastening a grille frame only at the bottom would have been obvious.

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Thompson is relied upon for teachings related to the claimed material. Since Wakeen and the other cited references establish the structure of the grille, there is no need for Thompson to provide such teaching.

Furthermore, Storer teaches the obvious nature of brackets penetrating through apertures in a grille frame. Although the grille frame of Storer is provided in combination with a bumper, the grille frame is still disclosed and includes brackets passing through apertures in the grille frame.

Conclusion

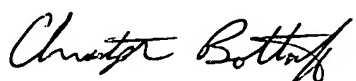
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (703) 308-2183. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

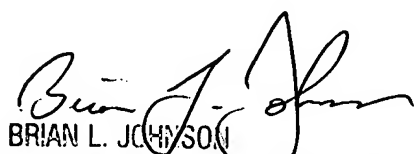
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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Christopher Bottorff



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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

2/20/04

PATENTED NOV 23 1971

3,622,174

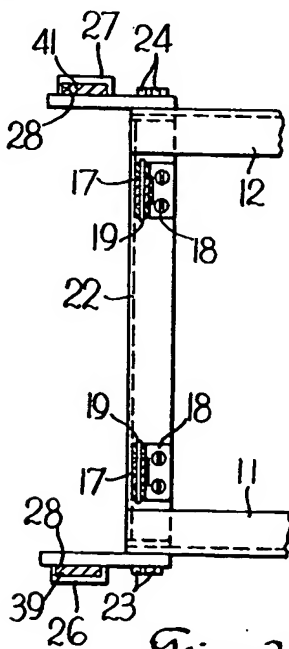
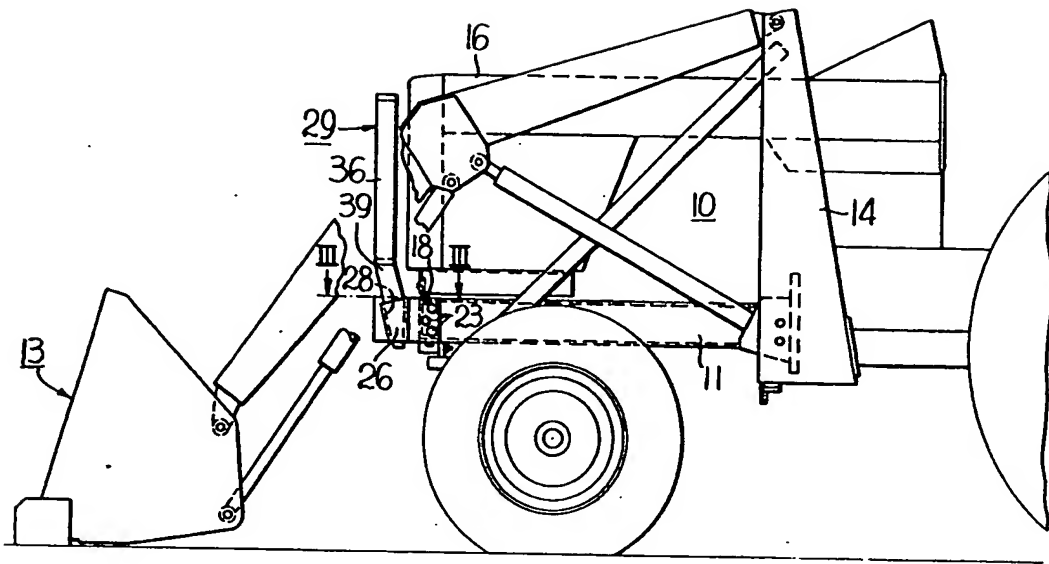


Fig. 3

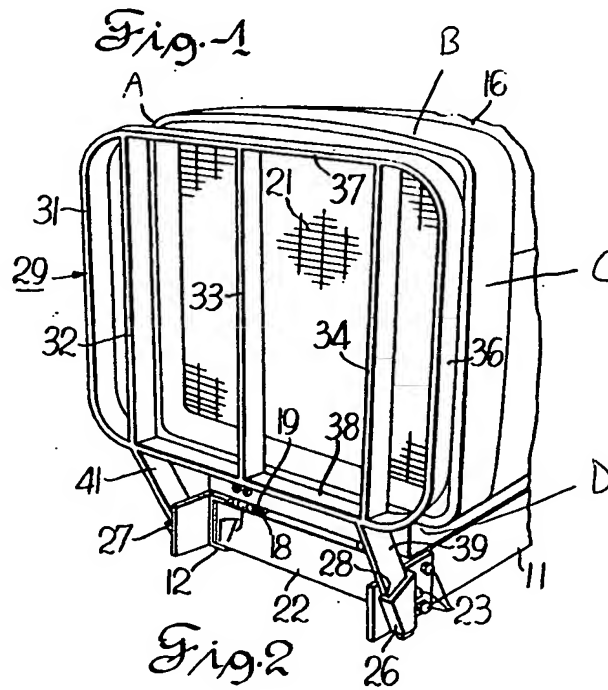


Fig. 2

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 Raymond S. Wahren
 Richard S. Roe
 By Kenneth C. Kiehl
 Attorney